

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Abraham Dixon	Team: Squad #8	CCRB Case #: 201809969	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/28/2018 10:45 PM, Thursday, 11/29/2018	Location of Incident: Bruckner Boulevard and Longwood Avenue	Precinct: 41	18 Mo. SOL 5/28/2020	EO SOL 1/12/2021	
Date/Time CV Reported Fri, 11/30/2018 11:13 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/30/2018 11:13 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Brett Heagneysciamatore	14161	960649	041 PCT
3. POM Franklyn Santana	12709	949617	041 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Franklyn Santana	Abuse: On November 28, 2018, Police Officer Franklyn Santana stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Brett Heagneysciamatore	Abuse: On November 28, 2018, Police Officer Brett Heagneysciamatore stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Franklyn Santana	Abuse: On November 28, 2018, Police Officer Franklyn Santana questioned § 87(2)(b)	
D.POM Franklyn Santana	Abuse: On November 28, 2018, Police Officer Franklyn Santana frisked § 87(2)(b)	
E.POM Franklyn Santana	Abuse: On November 28, 2018, Police Officer Franklyn Santana searched § 87(2)(b)	
F.POM Brett Heagneysciamatore	Abuse: On November 28, 2018, Police Officer Brett Heagneysciamatore searched the vehicle in which § 87(2)(b) was an occupant.	
G.POM Brett Heagneysciamatore	Abuse: On November 28, 2018, Police Officer Brett Heagneysciamatore seized § 87(2)(b)'s property.	
H. Officers	Abuse: On November 29, 2018, officers stopped the vehicle in which § 87(2)(b) was an occupant.	
I.POM Brett Heagneysciamatore	Abuse: On November 29, 2018, Police Officer Brett Heagneysciamatore stopped the vehicle in which § 87(2)(b) was an occupant.	
J. Officers	Abuse: On November 29, 2018, officers questioned § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		
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### Case Summary

On November 30, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone [Board Review 01].

On November 28, 2018, at approximately 10:45 p.m., § 87(2)(b)'s vehicle was pulled over by PO Brett Heagneysciamatore and PO Franklyn Santana of the 41<sup>st</sup> Precinct Anti-Crime Unit on Bruckner Expressway in the Bronx (**Allegations A and B: Abuse of Authority, § 87(2)(g)**). PO Santana allegedly asked § 87(2)(b) if he had any weapons in the vehicle (**Allegation C: Abuse of Authority, § 87(2)(g)**). PO Santana asked § 87(2)(b) if he could search the car and § 87(2)(b) consented to the vehicle search. PO Santana allegedly frisked and searched § 87(2)(b) while Heagneysciamatore searched his vehicle (**Allegations D, E, and F: Abuse of Authority, § 87(2)(g)**). After the vehicle search, PO Heagneysciamatore gave § 87(2)(b) his wallet and information back and he was allowed to leave without being issued a summons. Upon leaving, § 87(2)(b) noticed PO Heagneysciamatore did not return his license (**Allegation G: Abuse of Authority, § 87(2)(g)**).

On November 29, 2018, at approximately 9:30 p.m., § 87(2)(b) was pulled over again by PO Heagneysciamatore and two other plain-clothed officers (**Allegation H: Abuse of Authority, § 87(2)(g)**; **Allegation I: Abuse of Authority, § 87(2)(g)**). The officers asked § 87(2)(b) his license and registration and if he had any weapons in the car (**Allegation J: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) replied that PO Heagneysciamatore did not return it on the prior night he was stopped and § 87(2)(b) was allowed to leave without being issued a summons.

§ 87(4-b), § 87(2)(g)

In this case, the officers were equipped with body-worn cameras but did not activate them so there is no video footage.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: On November 28, 2018, Police Officer Franklyn Santana stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (B) Abuse of Authority: On November 28, 2018, Police Officer Brett Heagneysciamatore stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (C) Abuse of Authority: On November 28, 2018, Police Officer Franklyn Santana questioned § 87(2)(b)**

**Allegation (D) Abuse of Authority: On November 28, 2018, Police Officer Franklyn Santana frisked § 87(2)(b)**

**Allegation (E) Abuse of Authority: On November 28, 2018, Police Officer Franklyn Santana searched § 87(2)(b)**

**Allegation (F) Abuse of Authority: On November 28, 2018, Police Officer Brett Heagneysciamatore searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (G) Abuse of Authority: On November 28, 2018, Police Officer Brett Heagneysciamatore seized § 87(2)(b)'s property.**

§ 87(2)(b) provided a statement to the CCRB on December 4, 2018 [BR 02]. On November 28, 2018, at approximately 10:45 p.m., he was pulled over by PO Brett Heagneysciamatore and PO Franklyn Santana in an unmarked black Ford Taurus on Bruckner Expressway in the Bronx. At the time of the stop, § 87(2)(b) was Facetiming his girlfriend, § 87(2)(b) as he routinely does when he leaves work. PO Santana asked for § 87(2)(b)'s license and registration and asked if he had any weapons in the car. § 87(2)(b) complied and told PO Santana he did not have any weapons in the car. PO Santana then asked for consent to search § 87(2)(b)'s car. § 87(2)(b) consented to the vehicle search and PO Santana asked § 87(2)(b) to exit the vehicle and put his hands on top of the car. PO Santana, then, patted § 87(2)(b) down from his chest area to his ribs and down to his pants legs. After being patted down, § 87(2)(b) put his hands into his jacket pocket because it was cold outside. PO Santana asked § 87(2)(b) to remove his hands from his pockets and patted the jacket down. PO Santana then went into the pockets of the jackets where § 87(2)(b) had his hands. PO Santana did not remove anything from his pockets. During this time, PO Heagneysciamatore searched the inside of § 87(2)(b)'s car. PO Heagneysciamatore first opened the passenger door and looked there before examining the driver's side. PO Heagneysciamatore then moved to the backseat and looked behind the driver and passenger seats. § 87(2)(b) stated that there was a drill on the passenger side floor and car parts in small boxes in the backseat. § 87(2)(b) did not see PO Heagneysciamatore remove anything from his car. PO Santana instructed § 87(2)(b) to sit back in the car and PO Heagneysciamatore examined the trunk of his car. PO Heagneysciamatore did not remove anything from the trunk. PO Santana then asked § 87(2)(b) if he smoked marijuana. § 87(2)(b) told PO Santana that there were cigars in his car but he did not smoke marijuana. PO Santana asked § 87(2)(b) if he had any open warrants and § 87(2)(b) said he did not. PO Santana then informed § 87(2)(b) that he had an open warrant for reckless driving. § 87(2)(b) told PO Santana that he did not have an open warrant. PO Santana stated, "if we was white and blue, you would be getting arrested right now. You have a warrant for arrest." § 87(2)(b) reiterated that he did not have any open warrants and PO Heagneysciamatore returned his wallet and keys. § 87(2)(b) did not check his belongings upon receiving it back because it was cold from the windows being down. As he was driving, § 87(2)(b) realized his license had not been returned.

§ 87(2)(g)  
[BR 03]. § 87(2)(b) did not witness the pat down or search of § 87(2)(b) because it happened out of the range of his phone. § 87(2)(b) also did not see PO Heagneysciamatore search § 87(2)(b)'s car, however, she did hear an officer going through the vehicle.

PO Heagneysciamatore provided a statement to the CCRB on February 6, 2019 [BR 04]. He did not have any independent recollection of the incident. PO Heagneysciamatore was prompted with a brief narrative of the incident, the name and a picture of § 87(2)(b) and a description of § 87(2)(b)'s vehicle. However, this did not prompt any recollection of the incident. PO Heagneysciamatore did not recall any events from November 28, 2018 and explained that they were acclimation days since it was his first day as an Anti-Crime officer. PO Heagneysciamatore was shown a printout of a warrant audit which indicated that he executed a warrant check on § 87(2)(b) on November 28, 2018 [BR 05]. However, this did not prompt any recollection of the incident. PO Heagneysciamatore did not have any memo book entries regarding the incident and did not activate his body camera on that day. He stated PO Santana was his partner on November 28, 2018.

PO Santana provided a statement to the CCRB consistent with PO Heagneysciamatore's on February 13, 2019 [BR 06]. He did not have any memo book entries prepared for this incident nor did he activate this body-worn camera.

§ 87(2)(g)

**Allegation (H): Abuse of Authority: On November 29, 2018, officers stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (I): Abuse of Authority: On November 29, 2018, Police Officer Brett Heagneysciamatore stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (J): Abuse of Authority: On November 29, 2018, officers questioned § 87(2)(b)**

It is undisputed that § 87(2)(b) was stopped on November 28, 2018.

§ 87(2)(b) stated that he was stopped again by plain-clothed officers on November 29, 2018, at approximately 9:30 p.m. on Longwood Avenue in the Bronx as he was driving from work [BR 02]. He stated that it was the same unmarked black Ford Taurus from the prior night, and when the officers approached, he recognized PO Heagneysciamatore from the previous night. § 87(2)(b) did not recognize the other officers present during the stop. The officers asked for his license and registration and § 87(2)(b) told them that PO Heagneysciamatore confiscated it the night before. The officers asked if § 87(2)(b) had any weapons in the car and he responded that the same things were in the car from the previous night. PO Heagneysciamatore and the other officers had a conversation amongst themselves and § 87(2)(b) was allowed to leave. No summons were issued during this interaction.

In PO Heagneysciamatore statement to the CCRB, he stated he had no recollection of conducting a stop on November 29, 2018 and did not have any record or make any record of a stop conducted on this day [BR 04]. There was no documentation of a stop being conducted on November 29 and warrant audit requests came back with negative results.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

[REDACTED]

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party [BR 10].
- PO Heagneysciamatore has been a member of service for three years and has been the subject of two CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- PO Santana has been a member of service for eight years and has been the subject of five complaints and nine allegations, none of which were substantiated. § 87(2)(g)

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- A FOIL request for the Notice of Claim was submitted to the Office of the New York City Comptroller on March 29, 2019 and will be added to the case file upon receipt [BR 11].
- § 87(2)(b)

Squad No.: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date